

For her fine record through two administrations as a State vice-president in broadening the Auxiliary's scope of interest and increasing its field of services,

For her leadership during two and a half years as county president, when she built the membership to the largest county group in the country,

For the joy she finds in her work,

For the inspiration she carries to others,

For her fearless pioneering spirit,

For the trueness of her friendship,

We, the members of the Los Angeles County Medical Auxiliary, dedicate this, the 1936 edition of our year-book.

After consideration of what the California State and County Auxiliaries have accomplished in eight brief years, must we not agree that all members of the California Medical Association may well be proud of the Auxiliaries, and the loyal women who make up the membership and carry on the work of these accessory units so efficient to scientific and organized medicine?

ARMY MEDICAL LIBRARY

The Army Medical Library of Washington, D. C.—Far out as we are, on the Pacific Coast, we may be pardoned if, at times, we seem to forget the immense service rendered by some of the medical institutions and activities headquartered along the Atlantic seaboard. Not the least among these is the Army Medical Library, located at Seventh Street and Independence Avenue, S. W., Washington, D. C., which will become, it is hoped, in the not far distant future, an adjunct of the Army's Walter Reed Hospital of that city.

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Tribute to Army Medical Library by the Late William H. Welch.—It was of this library that the late William H. Welch of Johns Hopkins said:

I have been asked on more than one occasion what have been the really great contributions of this country to medical knowledge. I have given the subject some thought, and think that four should be named:

1. The discovery of anesthesia.
2. The discovery of insect transmission of disease.
3. The development of the modern public health laboratory, in all that the term implies.
4. The Army Medical Library and its *Index-Catalogue*; and this library and its catalogue are the *most important* of the four.

The Army Medical Library's bigness is shown in its possession of more than one million volumes or items, and of some 450 of the 600 volumes printed prior to or shortly after the year 1500. The oldest of these medical incunabula in the Army Medical Library is Johannes Gerson's *De pollutione nocturna*, from a Cologne press under date of 1467.

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The Late Colonel John Shaw Billings.—In 1936 the Army Medical Library—known up to some fifteen years ago as the Library of the Surgeon-General's office—was one hundred years old. In its growth, it owed its greatest development to the late Colonel John Shaw Billings, a graduate of the Medical Schools of the Uni-

versity of Cincinnati (Miami-Medical College of Ohio), who, as early as 1876, outlined the type and scope of the *Index-Catalogue*, destined to appear, between 1880 and 1895, in sixteen large quarto volumes. In 1879, a monthly catalogue, the *Index Medicus*, was brought off the press by Billings, but the publication, maintained for a while by private subscription, was not able to survive; and in 1899 efforts were made to have the Carnegie Foundation take over its production. This was accomplished, for the period 1903-1927, when again a new sponsor was found in the American Medical Association, which merged it with its own *Quarterly Cumulative Index*, established in 1916, making it the *Quarterly Cumulative Index Medicus*.

* * *

The Largest Medical Library in the World. The Army Medical Library of the United States has the largest collection of medical books in the world, and the service it has rendered to American and World Medicine is hard to estimate. Its worth is splendidly attested in a tribute from the late William Osler, who, as long ago as 1912, wrote: "Probably few men in the profession owe a deeper debt of gratitude to the Surgeon-General's Library than I." As part of the Library's activities, it maintains the Army Medical Museum, also the largest of its kind anywhere.

It is well for California physicians to keep the Army Medical Library in mind, because it extends its facilities to the medical libraries of the State, and, through them, to the physicians of California.

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Army Medical Library Worthy of Congressional Appropriations.—The record of great achievement by the Army Medical Library makes it proper for component county societies to inform the United States Senators and Congressmen from California* that the physicians of the Golden State are in full sympathy with the proposed annual federal appropriations, to provide adequately not only for additions to the volumes already in the Library and give full support to the *Index-Catalogue*, but also to make ample provision for adequate housing in the proposed building to be erected on the new site adjacent to the Walter Reed Hospital in Washington.

THE QUESTION—CAN A CORPORATION PRACTICE MEDICINE IN CALIFORNIA?: THE STATE'S ANSWER TO THE CORPORATION'S APPEAL TO THE CALIFORNIA SUPREME COURT

An Interesting and Important Brief.—On February 4, 1937, the Hon. U. S. Webb, Attorney-General of the State of California, and Lionel Browne, Deputy Attorney-General, as legal representatives for the Respondent (The People of the State of California, *ex rel.*, State Board of Medical Examiners), filed their brief in the appeal

*For list of United States Congressmen from California, see page 208.

taken by the Pacific Health Corporation from the judgment of the Superior Court of the State of California, in and for the County of San Francisco—Hon. C. J. Goodell, Judge;* presenting, as their viewpoint of the issue before the Supreme Court, the following:

THE ISSUE

Was the court correct in determining that the appellant corporation [Pacific Health Corporation] was engaged in the practice of medicine where it paid commissions to solicitors who secured applications for contracts, which, if accepted by appellant [Pacific Health Corporation], permitted the contract holder to secure medical or surgical services from licensed physicians chosen and compensated by appellant corporation [Pacific Health Corporation], or can a corporation undertake to supply medical services through licensed persons chosen and compensated by it, or is it, in so doing, wrongfully engaged in the practice of medicine?

* * *

Points in the Arguments of the Attorneys-General.—In the foreword of the brief, the Attorneys-General state:

FOREWORD

Appellant [Pacific Health Corporation] agrees a corporation cannot legally practice medicine or any other profession, but contends it is not practicing medicine where it undertakes, for a consideration paid by its contract holders, to supply and pay for the services of licensed physicians and surgeons of its choice.

The question before this court, appellant [Pacific Health Corporation] argues, is a social one, and an affirmation of the judgment at bar will outlaw fraternal, religious, hospital, labor union, insurance and other organizations. We [State of California] urge that an affirmation of the judgment herein will do no more than cause appellant [Pacific Health Corporation] to stop doing those things which constitute the practice of medicine, and insist the matters referred to were not before the court below. We believe it advisable to consider those matters which were the subject matter of the agreed statements of fact.

Matters not involved in such statements can be considered if, as, when, and where they arise.

Lack of space prevents giving details of the argument, as outlined in the seventy-six pages needed to impart their understanding of the law of the case, which was analyzed and presented under the following headings:

- I. A Corporation Cannot Practice Medicine
- II. Appellant's False Premise
- III. Rules of Construction Applicable to This Case
- IV. The Statute Defining and Regulating the Practice of Medicine Specifically Prohibits Unlicensed Persons From Engaging in the Acts Which Constitute the Practice of Medicine
- V. The Medical Practice Act Does Not Recognize That a Corporation May Hold Itself Out to the General Public as Supplying Medical Services
- VI. The Medical Practice Act Specifically Prohibits Corporations From Engaging in, Advertising and Holding Itself Out as Being Engaged in the Practice of Medicine
- VII. Appellant was Engaged in the Practice of Medicine Under the Stipulated Facts
- VIII. This Court [California Supreme Court] has Expressly Determined that It Is Illegal for a Corporation to Engage in the Practice of Medi-

cine by Employing Licensed Persons to Treat Persons Having Contracts for Medical Services With the Corporation

- IX. Authorities From Other Jurisdictions Which Permit the Corporate Practice of Medicine Do Not Represent the Law of This State
- X. The Medical Profession's View of the Question at Bar Is Immaterial
- XI. The Medical Practice Act Is Not Violative of the Fourteenth Amendment and Unconstitutional
- XII. The Affirmance of This Judgment Will Not Outlaw Fraternal, Religious, Benevolent and Other Organizations Furnishing Sick Benefits to Their Members

* * *

The Conclusions Presented by the Attorneys-General.—The above notations should be of interest because they indicate the scope and intricacies of such a legal question. Because of its importance to private medical practice, readers may find the following conclusion of the Attorneys-General, as presented in their brief, of real interest:

CONCLUSION

In that portion of its brief denominated "The Law of the Case," the respondent has answered appellant's endeavor to distinguish those cases necessarily dealing with the corporate practice of a profession. The point that a corporation cannot furnish medical services is not here involved. Indeed, under certain circumstances it is the absolute duty of a corporation to provide medical services. Under the Workmen's Compensation Act of this State, a person or corporation employer is required to supply medical attention for their employees, but this is far different than to permit corporations to make money by commercially engaging in the practice of medicine. The people of this State have never urged that a corporation cannot employ attorneys to represent it. It has the same right to employ attorneys to represent it, if it is not doing a law business, as has a natural person.

In the case entitled *In re Bensel et al.*, 124 N. Y. S. 726, it is held that a corporation cannot do indirectly that which it cannot do directly. This case cites *Bronald vs. Engler*, 121 App. Div. 123; 105 N. Y. S. 508, affirmed in 194 N. Y. 323; 87 N. E. 427, 21 L. R. A. (N. S.) 176, which holds:

"Where parties hold themselves out as pursuing the trade of a master plumber, it is a violation of Section 45 of the General Cities Law, Laws of 1900, C. 327, to carry on that business without a license. Persons so doing are not exempt from the condemnation of the statute by the employment of a licensed master plumber as a manager of the business."

It would, therefore, seem that while a corporation may employ a licensed person to render professional services for it—as, for example, to check up on the health of its employees or render first-aid service or the like—it cannot collect money from third persons for rendering services which a licensed person must, under the law, perform.

Wherefore, it is respectfully submitted that the judgment should be affirmed.

Dated: San Francisco, California, February 4, 1937.

U. S. WEBB,
Attorney-General of the State of California.
LIONEL BROWNE,
Deputy Attorney-General of the State of California.

Attorneys for Respondent.

* References in CALIFORNIA AND WESTERN MEDICINE to Judge C. J. Goodell's opinion appeared in the issues of November, 1935 (on page 324) and December, 1935 (on page 397), the full opinion being printed in the December, 1935, number (on page 460). References to other articles on the subject of corporate practice of medicine, and of California Medical Association Council action thereon, were given on page 324 of the November, 1935, issue.

Other State Association and Component County Society News.—Additional news concerning the activities and work of the California Medical Association and its component county medical societies is printed in this issue, commencing on page 187.